

Thrift Depositor Protection Ovsgrt. Bd.

§ 1505.29

United States, in any formal or informal appearance before, or with the intent to influence, make any oral or written communication on behalf of any other person other than the United States:

(1) To any department, agency, or court of the United States;

(2) In connection with any particular government matter involving a specific party; and

(3) If such matter was actually pending under the employee's responsibility as an officer or employee within a period of one year prior to the termination of such responsibility.

See 18 U.S.C. 207(b)(i) and 5 CFR 2632.202 (formerly 5 CFR 737.7(a)).

(c) No former senior employee, within two years after termination of employment with the Board or RTC, shall knowingly represent or aid, counsel, advise, consult, or assist in representing any other person, except the United States, by personal presence at any formal or informal appearance:

(1) Before any department, agency, or court of the United States;

(2) In connection with any particular government matter involving a specific party; and

(3) In which matter he or she participated personally and substantially while an employee.

See 18 U.S.C. 207(b)(ii) and 5 CFR 2637.203 (formerly 5 CFR 737.9(a)).

(d) The provisions of paragraphs (a), (b), and (c) of this section shall not apply to the participation of a former employee or special government employee, other than those persons described in paragraph (e) of this section, in matters of general application, such as rulemaking, proposed legislation or regulations, and the formulation of general policy standards or objectives but shall apply to rulemaking having a direct and predictable effect on a certain party or group of parties. See 5 CFR 2637.201, (formerly 5 CFR 737.5(c)).

(e) For a period of one year after termination of employment with the Board, no former senior employee (other than a special government employee who serves for fewer than sixty (60) days in a calendar year) shall knowingly act as an agent or attorney for, or otherwise represent any other person except the United States, in any

formal or informal appearance before, or with the intent to influence, make any oral or written communication on behalf of any other person other than the United States to the Board or RTC or any of its officers or employees in connection with any particular government matter, whether or not involving a specific party, which is pending before the Board or RTC, or in which the Board or RTC has a direct and substantial interest. See 18 U.S.C. 207(c) and 5 CFR 2637.204 (formerly 5 CFR 737.11).

[55 FR 5358, Feb. 14, 1990; 55 FR 11719, Mar. 29, 1990]

§ 1505.28 Limitations on aiding or advising.

(a) For a period of one year after termination of employment with the Oversight Board, no former covered employee, including a former senior employee, shall knowingly act as agent or attorney for, or otherwise aid or advise any other person (except the United States), concerning any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, or other particular matter:

(1) In which the former employee knows that the United States is a party or has a direct and substantial interest;

(2) That involves the same specific party or parties; and

(3) In which matter he or she participated personally and substantially while an employee.

(b) For purpose of paragraph (a) of this section, the limitations on aiding and advising shall only apply to particular matters about which the former employee had access to information which is exempt from disclosure under section 552 of title 5 of the United States Code, and which is so designated by the Oversight Board or RTC and which information is the basis for the aid or advice.

§ 1505.29 Consultation as to propriety of appearance before the Board or RTC.

Any former employee who wishes to appear before the Board or RTC on behalf of any person other than the United States, or an agency thereof, at

any time after termination of employment with the Board, may consult the DAEO as to the propriety of such appearance.

§ 1505.30 Suspension of appearance privilege.

Any former employee or special government employee who, knowingly fails to comply with the provisions of this subpart, may be prohibited from making an appearance before or an oral or written communication to the Board or RTC for such period of time as provided in procedures to be adopted by the Board or RTC.

Subpart F—Ethical and Other Conduct and Responsibilities of Special Government Employees

§ 1505.31 General.

(a) Special government employees are those serving the Board by performing temporary duties either on a full time or intermittent basis, with or without compensation, for a period not to exceed 130 days during any period of 365 consecutive days. The two independent members of the Board and members of the National and Regional Advisory Boards are expected to be special government employees.

(b) The rules of conduct contained in subparts A, B, C, D, and E of this part shall also apply to special government employees insofar as their employment with the Board is concerned, except as otherwise indicated in this subpart F. Thus, for example, the prohibition in § 1505.14(e), concerning active participation in political management or campaigns (5 U.S.C. 7321 *et seq.*, the Hatch Act), only applies to special government employees on days that they serve the Board, and the general restrictions imposed on outside employment and investments by subpart C of this part do not apply to special government employees as long as they are disqualified from dealing with particular matters affecting their employers or financial interests.

§ 1505.32 Applicability of 18 U.S.C. 203 and 205.

(a) The prohibitions in 18 U.S.C. 203 and 205 applicable to special govern-

ment employees are less stringent than those which affect regular employees. These two sections in general operate to preclude a regular Government employee, except in the discharge of his or her official duties, from representing another person before a department, agency or court, whether with or without compensation, in a matter in which the United States is a party or has a direct and substantial interest. However, the two sections impose only the following major restrictions upon a special government employee:

(1) He or she may not, except in the discharge of his or her official duties represent anyone else (or receive compensation from another's representation) before a court or Government agency in a particular matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest and in which he or she has at any time participated personally and substantially in the course of his or her Government employment. What constitutes personal and substantial participation in a matter is discussed in § 1505.34(b).

(2) He or she may not, except in the discharge of his or her official duties, represent anyone else (or receive compensation from another's representation) in a matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest and which is pending before the agency he or she serves. However, this restraint is not applicable if he or she has served the agency no more than 60 days during the past 365. He or she is bound by the restraint, if applicable, regardless of whether the matter is one in which he or she has ever participated personally and substantially.

(b) These restrictions prohibit both paid and unpaid representation and apply to a special government employee on the days when he or she does not serve the Government as well as on the days when he or she does.

(c) A special government employee who undertakes service with the Board, and another Federal entity, including the RTC, shall inform each of his or her arrangements with the other.